

78B-6-1701 Cause of action for identity theft.

- (1) A petitioner who has been injured by a violation of Section 76-6-1102, Identity Fraud, or Section 76-10-1801, Communications Fraud, may recover from the perpetrator:
 - (a) compensatory damages in the amount of \$1,000 or up to three times the amount of actual damages, whichever is greater;
 - (b) attorney fees; and
 - (c) court costs.
- (2) Actual damages may include:
 - (a) replacement or reissuance costs for checks and any personal identification documents;
 - (b) the value of the petitioner's time spent:
 - (i) repairing their credit history or rating; and
 - (ii) attending civil or administrative hearings necessary to resolve any debt, lien, or other obligation arising from the offense;
 - (c) lost wages; and
 - (d) any other verifiable costs the court may choose to include.
- (3) The court may award punitive damages in addition to compensatory damages.
- (4) A perpetrator who is not tried or found not guilty of a violation of Section 76-6-1102, Identity Fraud, or Section 76-10-1801, Communications Fraud, may be found liable under this section if the court finds by a preponderance of the evidence that the perpetrator participated in a violation and the petitioner was injured as a result.
- (5)
 - (a) A perpetrator who is found guilty of a violation of Section 76-6-1102, Identity Fraud, or Section 76-10-1801, Communications Fraud, shall be found liable under this section.
 - (b) If restitution was ordered in the criminal action, the amount ordered shall be deducted from any damages awarded under this section.

Enacted by Chapter 143, 2010 General Session